

### **REMARKS**

Claims 1-30 are currently pending and stand rejected. In the Advisory Action dated December 12, 2007, the Examiner maintains the rejections made in the final Office Action dated August 23, 2007.

#### ***Amendment to the Claims***

Claims 1 and 30 are amended to recite that opposed first and second helical threads are radially offset approximately 180° from one another. Claim 16 is amended to add the term radially, such that claim 16 likewise recites first and second axially symmetrical threads that are radially offset approximately 180°. Support for these amendments can be found throughout the specification and in the drawings, at least in paragraph [0018] of the published application. No new matter is added.

#### ***Rejections Pursuant to 35 U.S.C. § 103***

Claims 1-2, 6-8, 10-12, 14-17, 21-22, and 25-30 are rejected pursuant to 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,503,251 ("Shadduck") in view of U.S. Patent No. 5,584,836 ("Ballintyn").

At the outset, in reference to claim 1, Applicants disagree with the Examiner's statement in the Advisory Action dated December 12, 2007 that varying the length of a screw is a matter of obvious engineering design choice. Applicants are not attempting to vary a length of a screw, but instead are claiming that a distal portion of a shank, which has a decreasing minor diameter (unlike the proximal portion which has a constant minor diameter), be at least about 10% of a total length of the screw. The Examiner's statement is therefore incorrect and forming a screw to have a distal portion with a decreasing minor diameter that extends along at least about 10% of a total length of the screw is not an obvious engineering design choice. Regardless, as noted above, amended claims 1, 16, and 30 recite that first and second threads are *radially* offset approximately 180° from one another. The screw of Shadduck does not have threads which are radially offset from one another. To the contrary, the threads are radially aligned, as shown in FIG. 6 of Shadduck. As the Examiner points out, the threads of Shadduck are *laterally* offset,

but this does not meet the limitation of claims 1, 16, and 30 requiring the threads to be *radially* offset by approximately 180°. Ballintyn does not cure this deficiency because Ballintyn teaches a screw with only one thread. Further, while the terminology “approximately” encompasses values less than and greater than 180°, the ordinary meaning of the term “approximately” requires that the value be close to 180° or about 180°, as would clearly be understood by one skilled in the art. Applicants’ drawings support and give an exemplary illustration of this limitation by showing a shank with two helical threads extending around the shank approximately 180° apart. The threads of Shadduck, however, have no radial offset between them and thus are radially offset by 0°. A small radial offset or no radial offset would clearly not meet the requirement of “approximately 180°.” Accordingly, for all of these reasons, claims 1, 16, and 30, as well as claims 2-3, 6-8, 10-12, 14-15, 17, 21-22, and 25-29 which depend therefrom, distinguish over Shadduck in view of Ballintyn and represent allowable subject matter.

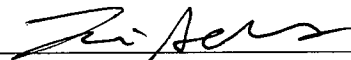
Dependent claims 3-5, 9, 13, 18-20, and 23-24 are rejected pursuant to 35 U.S.C. §103(a) as being obvious over Shadduck in view of Ballintyn and in further view of U.S. Patent No. 6,585,740 (“Schlapfer”). As noted above, claims 1 and 16 distinguish over Shadduck in view of Ballintyn, at least because Shadduck and Ballintyn fail to teach first and second threads that are radially offset approximately 180° from one another. The Examiner relies on Schlapfer to teach optimizing screw lengths and pitches. Schlapfer does not teach or suggest two threads radially offset approximately 180° and therefore does not remedy the deficiencies of Shadduck and Ballintyn. Thus, claims 3-5, 9, 13, 18-20, and 23-24 distinguish over Shadduck and Ballintyn in view of Schlapfer at least because they depend from an allowable base claim.

***Conclusion***

Applicants submit that all claims are in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

Dated: January 9, 2008

Respectfully submitted,

By   
Lisa Adams  
Registration No.: 44,238

NUTTER MCCLENNEN & FISH LLP  
World Trade Center West  
155 Seaport Boulevard  
Boston, Massachusetts 02210-2604  
(617) 439-2550  
(617) 310-9550 (Fax)  
Attorney for Applicants

1694125.1